

REMARKS

The Amendment filed on April 10, 2008 was objected to because it introduced new matter. Claim 9 has been canceled herein without prejudice or disclaimer and the specification has been amended. It is submitted that claim 9 of the original application recited a metal or plastic spring pressing upwardly the base of the stem against the grommet. This is a clear disclosure of the subject matter and the amended specification is permitted to show this subject matter (MPEP 608.01(I)). This is not new matter.

Claims 1, 4-11, 15-17 were rejected under 35 U.S.C. §112 second paragraph as being indefinite. Independent claim 1 has been amended to recite the valve "being adapted to be in contact with the container and the contents of the container ... "and "a grommet disposed around a stem of the valve". It is submitted that the subject matter is now distinctly claimed.

Claims 1 and 17 were rejected as being anticipated by *Benda et al* (5,353,472 – note correction). It is submitted that the cited reference does not suggest nor disclose "a grommet disposed around a stem of the valve". The reference discloses a grommet which is a plug to be inserted in an opening (column 3, lines 51-66) and has no relationship with a valve. The reference does not describe all of the features recited in claim 1 and allowance of claim 1 is respectfully requested.

Claims 1, 10, 11 and 15-17 were rejected as being unpatentable over *Turk* in view of *Benda et al*.

In *Turk*, as discussed in the Amendment of April 9, 2008, parts 32 and 64 are not integral parts to form a single grommet. Column 2, line 48 "member 64 rests on shoulder" 36 (plug 26, shoulder 36 and seat 32 form an integral part which is a grommet). *Turk* discloses two separate members (nozzle 64 and plug 26) with the nozzle separate from the plug. Additionally, compared to the present invention, there is an inversion of the position of the elastic non-thermoplastic rubber 32 (such as EPDM) and the rigid thermoplastic rubber 64 (such as Trefsin, PP, PE et.). Indeed in *Turk*, it is the elastic, non-thermoplastic rubber 32 that is in contact with the content of the container, and the thermoplastic material 64 is not. See in *Turk* the drawings in general and description column 2 line 8 "the flange 32 which rest against the inside of the closure 16". Further, *Turk* does

not disclose the non-thermoplastic rubber adhering to the thermoplastic material (specification of applicant page 3, lines 14-15). Clearly, there is far more involved here than the mere "forming in one piece an article which has formerly formed in two pieces" (Howard v. Detroit Stove Works) as a new and useful effect has been created.

Accordingly, allowance of claims 1, 10, 11 and 15-17 is respectfully requested.

It is submitted that claim 4 is dependent of valid claim 1 and therefore is also patentable.

It is submitted that claims 5-8 being dependent on valid claim 1 are also patentable.

It appears that all matters have been addressed satisfactorily, and that the case is now in condition for a complete allowance; and the same is respectfully urged.

However, if the Examiner has any comments or questions, or has any suggestions as per MPEP 707.07 (d) and (j), for putting the case in condition for final allowance, he is respectfully urged to contact the undersigned attorney-of-record at the telephone number below, so that an expeditious resolution may be effected and the case passed to issue promptly.

Dec 11, 2008  
Date

Respectfully submitted,



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